

**City of Miami Beach - City Commission Meeting**  
**Commission Chambers, 3rd Floor, City Hall**  
**1700 Convention Center Drive**  
**January 8, 2003**

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Mayor David Dermer  
Vice-Mayor Simon Cruz  
Commissioner Matti Herrera Bower  
Commissioner Luis R. Garcia, Jr.  
Commissioner Saul Gross  
Commissioner Jose Smith  
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez  
City Attorney Murray H. Dubbin  
City Clerk Robert E. Parcher

**ATTENTION ALL LOBBYISTS**

**Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.**

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|-----|---|
| PA1 | Cert. of Completion/Neighborhood Leadership Academy Graduates.                                      |
| PA2 | Cert. of Apprec./ (6) Properties for Contributing to the Beautification of the City.                |
| PA3 | Cert. of Apprec./M. Fernandez, S. Wood & W. Priegues, "At Your Service Awards."                     |
| PA4 | <b>New Item:</b> Cert. of Apprec./Ruth Antebi, Resignation after 10 Years of Service with the City. |
| PA5 | <b>New Item:</b> Proclamation/Terry D'Amico, For Her Work on the Design Review Board.               |
|     |   |
| C4A | Ref: Finance & Citywide Projects Committee - New World Symphony Lease.                              |
| C4B | Ref: Neighborhoods Committee - Espanola Way Association Request for Street Closure.                 |
| C4C | Ref: Neighborhoods Committee - Creation of a Civic Federation.                                      |
| C4D | Ref: Neighborhoods Committee - Development of a Forestry Master Plan for CMB. (Gross)               |
| C4E | Ref: Finance & Citywide Projects Committee - Closing of Ocean Drive for Special Events. (Gross)     |
| C4F | Ref: Finance & CWP Committee - Funding for Washington Ave. Streetscape Project. (Gross)             |
| C4G | Ref: Finance & Citywide Projects Committee - Minimum Pension Benefit Resolution. (Garcia)           |
|     |   |
| C6A | Report: General Obligation Bond Oversight Committee Meeting of December 2, 2002.                    |
| C6B | Report: Community Affairs Committee Meeting of December 20, 2002.                                   |
|     |   |
| C7A | Approve Construction Administration Phase Services, La Gorce ROW Improvement Project.               |
| C7B | Set Public Hearing, Consider Bid Waiver for Pine Tree & La Gorce Traffic Calming Project.           |
| C7C | Execute Multi-Family Housing Rehab Program Grant Agmt, 259 Washington Avenue.                       |
| C7D | Find/Declare Emergency, Allow MBSHS-PTA to Park at Public Swale Area at Dade Blvd.                  |
| C7E | Find/Declare Emergency, Allow PAL to Park at Public Swale Area at Dade Blvd.                        |
| C7F | Accept Recommendation, Provide E-Procurement Services.  |
| C7G | Issue RFP, Purchase an Infrastructure Maintenance & Mgmt System for Public Works.                   |
| C7H | <b>S-</b> Approve Lawsuit Settlement w/ Prestige Laboratories, Inc., Breach of Contract Claims.     |
| C7I | Accept as Complete the Improvements, Allison Island Utility Improvement District.                   |
| C7J | Approve Lien Settlement, Property At 430 South Shore Drive.   |

**REGULAR AGENDA**

- R5A **2:30 p.m. 2<sup>nd</sup> Rdg**, Campaign Finance Reform Legislation. (Smith/Gross/Dermer)  
 R5B **5:01 p.m. 1<sup>st</sup> Rdg**, Comprehensive Plan Amendment - Round #03-2. **5/7**  
 R5C **5:01 p.m. 1<sup>st</sup> Rdg**, Zoning Map Change & Land Development Regulations Amendment. **5/7**  
 R5D **3:30 p.m. 1<sup>st</sup> Rdg**, Amendment to RM-PRD Land Development Regulations. **5/7**  
 R5E **10:30 a.m. 1<sup>st</sup> Rdg**, Allow Parking Incentives for Specific Initiatives Sponsored by the City.  
 R5F **10:30 a.m. 1<sup>st</sup> Rdg**, Use Public/Private Property as Emergency Parking Lots for Special Events.  
 R5G **1<sup>st</sup> Rdg**, Amend Code, Procurement and Contract Procedures.
- R7A **W-Joint**, Execute Tolling Agmt w/ RDP Royal Palm Hotel & R. Donohue Peebles.  
 R7B **11:30 a.m.** Execute Lease Agmt w/ Jacques Auger Design, 1130 Washington Avenue. **5/7**  
 R7C **11:40 a.m.** Execute (3) Lease Agmts at the Byron Carlyle Theater - 500 71<sup>st</sup> Street. **5/7**  
 R7D **W-Accept Recomm.**, Construction Services for a Citywide Wayfinding Signage System.  
 R7E Issue RFP for the Management & Operation of the Convention Center and TOPA.
- R9A **10:15 a.m.** Board and Committee Appointments.  
 R9A1 Appoint Nominees from Dade Heritage Trust to the Historic Preservation Board.  
 R9A2 Nominate Mr. Pablo Cejas Jr. to the Planning Board. (Bower)  
 R9B1 **1:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.  
 R9B2 **5:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.  
 R9C **2:00 p.m.** Disc. License for Fruit/Vegetable Mobile Unit. (Cruz)  
 R9D Disc. Housing Authority & City of Miami Beach. (Bower)  
 R9E Request by James Silvers for City Commission to Review DRB Decision.  
 R9F **5:15 p.m.** Disc. Prevent the Noise Emanating from Opium Gardens. (Gross)

**R10 - City Attorney Reports**

- R10A **Noon Break**, Executive Session: Prestige Laboratories, Inc. Vs. City Of Miami Beach  
 R10B **Noon Break**, Executive Session: Royal World Metropolitan Inc. Vs. City Of Miami Beach

**REPORTS AND INFORMATIONAL ITEMS**

- A Parking Status Report.  
 B Status Report on Fire Station No. 2.  
 C Status Report on Fire Station No. 4.  
 D Report on All City Contracts for Renewal/Extension in the Next 180 Days.  
 E Status Report On Beach Management Plan.

**REDEVELOPMENT AGENCY ITEMS - 10:00 A.M.**

- 2A Report of Itemized Revenues/Expenditures of RDA for November 2002.  
 3A **W-Joint**, Execute Tolling Agmt w/ RDP Royal Palm Hotel & R. Donohue Peebles.

Meeting called to order at 9:21:49 a.m.

Inspirational message given by Rabbi Abraham Korf, from Congregation Lubavitch.

Pledge of allegiance led by Chief De Lucca.

Addendum: C4G, C7H, C7I, C7J, R10A, R10B, and Report E  
 Supplemental Materials: C7D (Resolution), and C7E (Resolution)

**ACTION:** Motion made by Commissioner Bower; seconded by Commissioner Garcia to add the

**PA - Presentations and Awards**

- PA1 Certificates Of Completion To Be Presented To The Neighborhood Leadership Academy Graduates.  
(Neighborhood Services)

**ACTION:** Certificates presented.

The following individuals received certificates: Sonia Haas, Judy Snyder, Joe Felton, Luis Giraldo, Harvey Burstein, Rafael Velasquez, Dolores Mehia, David Patlak, Casey Chu, Cyril Robin, and Jason Rodriguez.

Denotes special attendance recognition:

Dominique Bailleul, Harvey Burnstein, Monique Beaudet, Lucero Levy, Victor Guembes, Diane Downs, Phillip Cousins, Navin Ramani, Scott Grenald, Rev. Dr. Carol Hoffman, Stony Shukat, Dimas Dominguez, Gabrielle Redfern, and Ariane Canicio.

- PA2 Certificates Of Appreciation To Be Presented To Panna Cafe, Church Of Latter Day Saints, The La Tour Condominium, The Palm Hotel, Miami Beach Chamber Of Commerce, And Temple Emanuel In Recognition By The City Of Miami Beach's Beautification Committee For Their Efforts In Significantly Contributing To The Beautification Of The City And Its Citizens.  
(Parks & Recreation)

**ACTION:** Certificates presented.

Members of the Beautification Committee: Elizabeth Resnick (Chair), Joshua Brather, Faye Goldin, Milt Montalvo, Helene Owen, Jim Weingarten, and Norma Weinstein.

- PA3 Certificates Of Appreciation To Be Presented To Maggie Fernandez, Arts, Culture & Entertainment, Sam Wood, Public Works, And ~~Officer David McLaren, Police Department~~, W. Priegues, Parks and Recreation, In Recognition Of The "At Your Service Awards" For The Months Of October, November And December 2002.  
(City Manager's Office)

**ACTION:** Certificates presented.

Mr. Tony Naboa, Beach Bank, presented each individual with a \$100 savings bond.

**New Item:**

- PA4 Certificate Of Appreciation To Be Presented To Ruth Antebi Upon Her Retirement After 10 Years Of Service To The City Of Miami Beach As A Capital Projects Coordinator In The Department Of Public Works.  
(Department of Public Works)

**ACTION:** Certificate presented.

**New Item:**

- PA5 Proclamation To Be Presented To Terry D'Amico For Her Work On The Design Review Board.  
(Planning Department)

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**ACTION:** Item deferred.

### **CONSENT AGENDA**

**ACTION:** Motion made by Commissioner Bower to approve the Consent Agenda; seconded by Commissioner Garcia; Voice vote: 6-0; Absent Commissioner Cruz.

#### **C4 - Commission Committee Assignments**

- C4A Referral To The ~~Land Use And Development Committee~~ And The Finance And Citywide Projects Committee To Consider Preliminary Terms As Set Forth In A Letter Of Intent Submitted By The New World Symphony Relative To Its Proposed Lease Of A Portion Of The 17<sup>th</sup> Street Surface Parking Lot, To Accommodate Its Expansion Requirements.  
(Economic Development)

**ACTION: Item referred.** Patricia Walker to place on the agenda. Christina Cuervo to handle.

- C4B Referral To The Neighborhoods Committee A Discussion Concerning The Espanola Way Association Request For Street Closure Of The 400 And 500 Blocks Of Espanola Way And Recurring Event Programming.  
(Neighborhood Services)

**ACTION: Item referred.** Vivian Guzman to place on the agenda. Robert Middaugh to handle.

- C4C Referral To The Neighborhoods Committee For Discussion Of The Creation Of A Civic Federation.  
(Neighborhood Services)

**ACTION: Item referred.** Vivian Guzman to place on the agenda. Robert Middaugh to handle.

- C4D Referral To The Neighborhoods Committee - Development Of A Forestry Master Plan For The City Of Miami Beach.  
(Requested By Commissioner Saul Gross)

**ACTION: Item referred.** Vivian Guzman to place on the agenda. Kevin Smith to handle.

- C4E Referral To The Finance And Citywide Projects Committee - Issues Related To The Closing Of Ocean Drive For Special Events.  
(Requested By Commissioner Saul Gross)

**ACTION: Item referred.** Patricia Walker to place on the agenda. Christina Cuervo to handle.

- C4F Referral To The Finance And Citywide Projects Committee - Funding Sources For The Washington Avenue Streetscape Improvement Project.  
(Requested By Commissioner Saul Gross)

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**ACTION: Item referred.** Patricia Walker to place on the agenda. Tim Hemstreet to handle.

**Addendum:**

C4G Referral To The Finance And Citywide Projects Committee - Minimum Pension Benefit Resolution.  
(Requested By Commissioner Luis R. Garcia, Jr.)

**ACTION: Item referred.** Patricia Walker to place on the agenda. Mayra Diaz Buttacavoli to handle.

**C6 - Commission Committee Reports**

C6A Report Of The General Obligation Bond And Oversight Committee Meeting Of December 2, 2002: **1)** Project Status Report; **2)** Recommendation To City Commission: a) La Gorce Neighborhood BODR - La Gorce Park Area Improvements; **3)** Informational Items: a) Updated Calendar Of Scheduled Community Design Meetings; b) Issuance Of RFQ For Garden Center Botanical Garden; c) Issuance Of RFQ For South Pointe Park; d) Amendment To B & A's Agreement; e) Sequencing Of Construction; And **4)** Change Order Report.

**ACTION: Written report submitted.**

**Item 1:**

A resident spoke of his concerns regarding having meetings with the Administration regarding the 42<sup>nd</sup> Street Streetscape project. He had been told that the Administration would be holding another meeting with those concerned about the project to review the scope of the project. Mayor Dermer volunteered to coordinate a future meeting.

The Administration informed the Committee that the Normandy Isle Pool project was being discussed with the contractor due to unstable soil under the original pool. The Administration is working with the Program Manager, Consultant, and Contractor to find a suitable solution and negotiate a price. The Committee requested that an update be given at the next Committee meeting. **Tim Hemstreet to handle.**

**Item 2:**

A discussion was held regarding the Right-of-Way Improvements recommended for the La Gorce Park area of the La Gorce neighborhood. Two options had been presented to the community in recent Community Meetings, which resulted in consensus on a new option. This third option was presented to the Committee. The option included placing a traffic circle at the intersection of Alton Road and La Gorce Drive with minor improvements to the intersection of North Bay Road and La Gorce Drive. Other minor beautification enhancements would be implemented.

The Committee made a motion to table the proposed traffic circle and proceed with the design of the project in the La Gorce Park area. The Administration is to work with County representatives to see if the installation of stop signs as requested by the residents can be implemented. If they cannot be, the traffic circle will be reintroduced into the project. The Committee passed the motion by a vote of 11 in favor, one (1) opposed (Michael Rotbart), and one (1) vacancy (South Beach Representative). **Tim Hemstreet to handle.**

**Item 3:**

A) A calendar of scheduled Community Meetings was presented to the Committee but not reviewed.

B) The Administration informed the Committee that the issuance of an RFQ for the Garden Center Botanical Gardens design had been approved by the Commission. The Committee requested the Administration to find out if RDA funds could be used instead of GO Bond funds for this project. **Tim**

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**Hemstreet and Christina Cuervo to handle.**

C) The Administration informed the Committee that the issuance of an RFQ for the South Pointe Park design had been approved by the Commission.

D) The Administration informed the Committee of an amendment to Bermello & Ajamil's agreement regarding six park projects, wherein the South Pointe Park project and Phases IV and V of the North Shore Open Space Park projects were deleted from the scope of the agreement. The amendment also reallocated reimbursable allowances, and awarded an extension of time and additional services in the amount of \$157,716 to be funded by the interest from the General Obligation Bonds. The Committee discussed the legal issues surrounding the use of the interest from the Bonds. The Committee requested that the Administration seek a legal opinion about the use of the interest, and that the Chief Financial Officer speak at the next meeting regarding a variety of issues about the interest. **Patricia Walker to handle.**

E) The Administration informed the Committee that the City Commission had approved the Sequence of Construction for the Neighborhood Right-of-Way Infrastructure and Parks and Facilities Improvement Programs.

**Item 4:**

The Administration informed the Committee of change orders that had been approved since the last meeting.

C6B Report Of The Community Affairs Committee Meeting Of December 20, 2002: **1)** Discussion Regarding E-Procurement System; **2)** Discussion Regarding Initiatives And Amendments To The City Code To Provide For Expedited Procurement Processes; **3)** Discussion Regarding A False Claims Ordinance; **4)** Discussion Regarding Proposed Legislation Prohibiting Campaign Contributions By Real Estate Developers; And **5)** Discussion Regarding Proposed Legislation Prohibiting Campaign Contributions By Lobbyists On Real Estate Development Issues.

**ACTION: Written report submitted.****Item 1:**

The Committee discussed, approved and referred item to the January 8, 2003 Commission agenda for approval. See Agenda Item C7F.

**Item 2:**

The Committee discussed and approved to amend Chapter 2 of the City Code entitled "procurement", as follows: (1) provided the City Manager with the authority to reject all bids if only one bid is received and /or the lowest and best bid exceeds the budget; (2) allow the Administration to negotiate on any construction project whereby the lowest and best bidder exceeds the budgeted amount; and (3) provide the City Manager with the authority to approve purchases of commodities, materials, supplies, or other items on a continuing basis from contracts awarded by the School Board of Miami-Dade County. See Agenda item R5G.

**Item 3:**

This item was not discussed by the Committee but requested that it be placed on the January 8, 2003 Commission agenda. Deputy City Attorney Robert Dixon is to brief Commissioner Matti H. Bower on the proposed ordinance. **Legal Department to handle.**

**Item 4:**

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The Committee discussed the item. Commissioner Steinberg made a motion to approve and to place on the January 8, 2003 Commission agenda. Commissioner Gross seconded the motion. Mayor Dermer and Commissioner Cruz were in favor. Commissioner Steinberg will meet with Deputy City

Attorney Jean Olin to further clarify the language on entities making campaign contributions. See Agenda Item R5A3.

**Item 5:**

The Committee discussed the item. Commissioner Steinberg made a motion to approve and place the item on the January 8, 2003 Commission agenda. Commissioner Gross seconded the motion. Mayor Dermer and Commissioner Cruz were in favor. See Agenda Item R5A4.

**C7 - Resolutions**

- C7A A Resolution Approving The Addition Of Design, Bid And Award, And Construction Administration Phase Services, As Amendment No. 2, To The Scope Of Services Of The Agreement, Dated September 5, 2001, With Reynolds, Smith And Hills, A/E Consultant For The La Gorce Right Of Way (ROW) Improvement Project In The Amount Of \$328,410; And Further Appropriating An Amount Not To Exceed \$333,932, As Follows: \$5,522 From 1999 General Obligation Bond Funds, \$174,217, From Series 2000 Stormwater Revenue Bond Funds, And \$154,193 From Series 2000 Water And Sewer Bond Funds, For Said Services, As More Particularly Described In Exhibit A, The Fee Recommendation, Exhibit B, The Fee Detail, And Exhibit C, The Geographic Area Of The Above Mentioned Improvement Project.

(Capital Improvements Projects)

**ACTION: Resolution No. 2003-25096 adopted.** Patricia Walker to appropriate the funds. Tim Hemstreet to handle.

- C7B A Resolution Setting A Public Hearing For February 5, 2003, Pursuant To Section 255.20(10), Florida Statutes, And Chapter 2, Article VI, Division 3, Section 2-367(E) Of The City Of Miami Beach Code, Respectively, To Consider The Approval, By 5/7ths Vote, Of A Waiver Of Competitive Bidding, Finding Such Waiver To Be In The Best Interest Of The City, And Herein Appropriating Funds, And Authorizing The City Manager To Take All Emergency, Necessary And Appropriate Actions To Provide The Necessary Construction Services And Materials For The Pine Tree And La Gorce Traffic Calming Project, Which More Specifically Includes, But Is Not Limited To, The Landscaping And Uplighting Of 19 Center Median Traffic Separators On La Gorce Drive And Pine Tree Drive; Allowing For The Execution Of Emergency Construction Contracts, Purchase Orders And Associated Agreements, In A Form Acceptable To The City Attorney, For Said Project, In An Amount Not To Exceed \$420,000, For The Construction, Derived From Middle Beach Quality Of Life Funds, And Appropriated By Resolution 2000-23992.

(Capital Improvements Projects)

**ACTION: Resolution No. 2003-25097 adopted.** Public hearing scheduled for February 05, 2003. R. Parcher to notice. Lilia Cardillo to place on the agenda. Tim Hemstreet to handle.

City Clerk's note: 14-day notice - Advertise Thursday, Jan 16 [project, estimated cost and purpose]



**9:59:29 a.m.**

- C7C A Resolution Authorizing The Mayor And City Clerk To Execute The Attached Multi-Family Housing Rehabilitation Program Matching Grant Agreement With The M.B. Apartments Associates, Ltd., A Florida Limited Partnership, Established As A Wholly-Owned Affiliate Of The Miami Beach Community Development Corporation (MBCDC), In The Amount Of \$80,000 In Community Development Block Grant (CDBG) Program Funds Through The Multi-Family Housing Rehabilitation Program For The Rehabilitation Of The Madison Apartments Located At 259 Washington Avenue, Miami Beach, To Provide Nine (9) Rental Units For Income-Eligible Tenants For A Minimum Period Of Five (5) Years.  
(Neighborhood Services)

**ACTION: This item separated for discussion by Commissioner Gross.**

**Resolution No. 2003-25098 adopted as amended.** Motion made by Commissioner Gross to approve with the provision that structural repairs to the building are completed first and any left over money can be used to work on the list of remaining items; seconded by Commissioner Bower; Voice vote: 6-0; Absent Vice-Mayor Cruz. Vivian Guzman to handle.

Commissioner Gross stated that he met with the Executive Director of the Miami Beach Community Development Corporation (MBCDC) [Roberto Datorre] and he sees in the photos the need for this expenditure, but he thinks that what MBCDC wants to do to structurally correct the problems is good. Commissioner Gross stated that the way the budget has been allocated, only a small portion of the money will go to structural repairs and the structural repairs is the most important part of the money requested. Commissioner Gross will approve this request provided that the structural repairs are done first.

Handout or Reference Materials:

1. Document titled: The Madison, 259 Washington Avenue, Miami Beach, Exterior Rehabilitation - Project Handbook

**Supplemental Material - Resolution**

- C7D A Resolution Finding And Declaring The Existence Of An Emergency And Allowing The Miami Beach Senior High School Parent Teacher Association (MBSH-PTA), A Not-For-Profit Entity, To Utilize The Public Swale Area Located At Dade Boulevard Adjacent To The School, For A Fundraising Event And To Provide Additional Parking, From February 13-18, 2003, For The Miami International Boat Show; Further Providing That The Swale Area Be Utilized Exclusively By The MBSH-PTA Subject To The Following Conditions: (1) That 100% Of The Profits Generated From The Fundraiser Be Used By The MBSH-PTA For The Benefit Of Miami Beach Senior High School; (2) That The Subject Permission Is Granted Without Establishing A Precedent, So As To Satisfy This Unique Situation; (3) That The MBSH-PTA Restore The Property To The Same Condition As Before Its Use By The MBSH-PTA; And (4) That MBSH-PTA Provides A Certificate Of Insurance Or Other Proof Of Insurance To The City In A Form And Amount(s) Acceptable To The City's Risk Manager.  
(Parking Department)

**ACTION: Resolution No. 2003-25099 adopted.** Chief De Lucca, Al Childress, and Saul Frances to handle.

**Supplemental Material - Resolution**

C7E A Resolution Of Finding And Declaring The Existence Of An Emergency And Allowing The Police Athletic League (PAL), A Not-For-Profit Entity, To Utilize The Public Swale Area Located At Dade Boulevard And Prairie Avenue And The Dade Boulevard Vacant Lot, Located Between Prairie Avenue And Meridian Avenue, For A Fund Raising Event To Provide Additional Parking And Operate A Food Concession Stand, From February 13-18, 2003, At The Miami International Boat Show; Further Providing That The Dade Boulevard Vacant Lot And The Swale Be Utilized Exclusively By PAL Subject To The Following Conditions; (1) That 100% Of The Profits Generated From This Fundraiser Be Returned To PAL For Its Exclusive Use; (2) The Subject Permission Is Granted Without Establishing Precedent So As To Satisfy This Unique Emergency Situation; And (3) That PAL Provide A Certificate Of Insurance Or Other Proof Of Insurance To The City.

(Police Department)

**ACTION: Resolution No. 2003-25100 adopted.** Chief De Lucca, Al Childress, and Saul Frances to handle.

**10:07:00 a.m.**

C7F A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Proposals Received Pursuant To Request For Proposals (RFP) No. 41-01/02, For E-Procurement Services; Authorizing The Administration To Enter Into Negotiations With The Top-Ranked Firm Of Bidnet; And Further Authorizing The Mayor And City Clerk To Execute An Agreement With Bidnet To Provide E-Procurement Services.

(Procurement)

**ACTION: This item separated for discussion by Commissioner Garcia.**

**Resolution No. 2003-25101 adopted.** Motion made by Commissioner Bower; seconded by Commissioner Smith; Voice-vote 6-0; Absent Vice-Mayor Cruz. Gus Lopez to handle.

Commissioner Garcia stated that this item brings a lot of pleasure to him because the City is ending a bad deal with DemandStar. In reviewing the evaluations BidNet is a much better company. He applauds the Administration for bringing about the change. He hopes BidNet will do a better job.

C7G A Resolution Authorizing The Administration To Issue A Request For Proposals (RFP) For The Purchase And Implementation Of An Infrastructure Maintenance And Management System For The Public Works Department With Funding Provided By The Water, Sewer And Stormwater Enterprise Funds And The City's General Fund.

(Public Works)

**ACTION: Resolution No. 2003-25102 adopted.** Gus Lopez to issue the RFP.

**4:27:10 p.m.****Addendum:**

C7H A Resolution Approving A Settlement Of The Lawsuit Styled Prestige Laboratories, Inc. V. City Of Miami Beach, Case No. 01-8731 CA 30, In The Amount Of \$38,500 On The Breach Of Contract Claims; And Further Authorizing The City Attorney's Office To Execute Any And All Related Documents Related To The Settlement.

(City Attorney's Office)

**ACTION: Item separated from the Consent Agenda and was heard after the Closed Executive Session was held (see Agenda Item R10A).**

**Resolution No. 2003-25103 adopted.** Motion made by Vice-Mayor Cruz; seconded by Commissioner Bower; Voice vote: 7-0. Patricia Walker and Legal Department to handle.

**10:08:37 a.m.****Addendum:**

C7I A Resolution Accepting As Complete The Improvements Constructed Pursuant To That Certain Special Assessment District Known As The "Allison Island Utility Improvement District"; Said Action Being Taken As Required By Section 170.09, Florida Statutes.

(Capital Improvement Projects)

**ACTION: This item separated for discussion by Commissioner Smith.**

**Resolution No. 2003-25104 adopted.** Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent Vice-Mayor Cruz.

Commissioner Smith questioned why it took so long to take this action and what has been happening in terms of paying those assessments over the last couple of years. He also asked if the City has been collecting those assessments.

Jorge Gonzalez, City Manager, responded that technically the City cannot collect the assessment until the project is determined to be complete.

Commissioner Bower stated that there have been some discussions regarding the definition of "project completion." She asked for the definition.

Murray Dubbin, City Attorney, stated that the project is complete when the laterals are in place and available for hookup.

Raul Aguila, First Assistant City Attorney, stated that "the work will be considered to be complete once the public portion of the process is complete, versus once the individual homeowners have connected to the project. Once the City finishes the underground on public property then that certifies the project as complete." The City Attorney's Office also requested an Attorney General's Opinion on this point.

Commissioner Smith stated that the improvements are spectacular and commended the Administration.

Commissioner Garcia agreed with Commissioner Smith's comments and added that he has been asking for a budget director for a long time. He stated that this is a prime example of check and balances. Patricia Walker is an excellent Finance Director [Chief Financial Officer], but the City needs a budget director.

**Addendum:**

C7J A Resolution Approving A Settlement Regarding Liens On The Property At 430 South Shore Drive Owned By Michael Stern Providing That Liens In The Amount Of \$885,581.08 Be Settled For The Amount Of \$67,500.

(City Manager's Office)

**ACTION: Resolution No. 2003-25108 adopted.** Bob Middaugh to handle.

**End of Consent Agenda****REGULAR AGENDA****R5 - Ordinances**

**2:29:51 p.m.**

R5A Campaign Finance Reform Legislation

1. An Ordinance Amending Miami Beach City Code Chapter 2, Article VII By Creating Division 5 Thereof Entitled "Campaign Finance Reform," And Further Amending City Code Section 38-6 Entitled "Prohibited Campaign Contributions By Vendors" And City Code Chapter 2 By Transferring Said Section From Chapter 38 Of The Code To City Code Chapter 2, Article VII, Division 5, Renumbering Code Section 38-6 To Code Section 2-487; Amending Same By Mandating That The City Publish Notice Requirements Of This Ordinance, Establishing Responsibility Of Candidates For Elected Office To Determine Status Of Potential Donor As Vendor, Clarifying And Creating Definitions, Creating Additional Waiver Provision When Termination Of Existing Contract Would Be Economically Adverse To City's Best Interests; Providing For Repealer, Severability, Codification And An Effective Date. **2:30 P.M. Second Reading, Public Hearing.**

(Requested By Commissioner Jose Smith)  
(First Reading On December 11, 2002)

**ACTION:** Public Hearing held. **Ordinance No. 2003-3389 adopted.** Motion made by Commissioner Smith; seconded by Commissioner Steinberg; Ballot vote: 6-1; Opposed: Commissioner Garcia. Robert Parcher to transmit to Municipal Code Corporation.

Commissioner Steinberg offered two (2) amendments:

Amendment 1: Change disqualified period from 12 months to two (2) years. Commissioner Smith stated that he was okay with this amendment.

Murray Dubbin stated that he is concerned with broadening the issue. Based on the City Attorney's opinion, Commissioner Smith withdrew his approval of this amendment.

Amendment 2: as proposed in the handout. (See Handouts or Reference Materials) Commissioner Smith did not accept amendment 2.

Milton Montalvo spoke.

Commissioner Garcia stated that he will be voting against all four ordinances because he believes a Blue-Ribbon Committee should be formed to look at all of the ethics legislation comprehensively and holistically.

Handout or Reference Materials:

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Prepared by the City Clerk's Office

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1. Notice of Ad in Miami Herald

2. Commissioner Steinberg's proposed amendments to Section 2-247 (A)(3)(a) (1 and 2)

**3:06:19 p.m.**

2. An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 5 Thereof Entitled "Campaign Finance Reform" Via The Addition Of Code Section 2-488 Entitled "Prohibited Campaign Contributions By Lobbyists On Procurement Issues"; Providing For Repealer, Severability, Codification, And Effective Date. **First Reading**  
(Requested By Commissioner Saul Gross)

**ACTION: Ordinance approved on First Reading.** Motion made by Commissioner Gross; seconded by Vice-Mayor Cruz; Ballot vote: 4-3; Opposed: Commissioners Bower, Garcia and Smith. Second Reading and Public Hearing scheduled for February 05, 2003. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Legal Department to handle.

Commissioner Smith offered an amendment to delete "shall solicit" from the ordinance.

Commissioner Gross did not accept the amendment.

Commissioner Gross stated for the record that the previous discussions on this item held on November 13, 2002, Agenda Item R5B will be incorporated into the record by reference.

Robert Meyers, from the Miami-Dade County Commission on Ethics, spoke.

**3:30:08 p.m.**

3. An Ordinance Amending Miami Beach City Code Chapter 2, Article VII Division 5 Thereof Entitled "Campaign Finance Reform," Via The Addition Of Code Section 2-489 Entitled "Prohibited Campaign Contributions By Real Estate Developers"; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading**  
(Requested By Mayor David Dermer)

**ACTION: Ordinance approved on First Reading as amended below.** Motion made by Commissioner Steinberg; seconded by Commissioner Bower; Ballot vote: 6-1; Opposed: Commissioner Garcia. Second Reading and Public Hearing scheduled for February 05, 2003. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Legal Department to handle.

Mayor Dermer stated that the ordinance in the Agenda Book is not the original ordinance and he wants the original ordinance approved, not the one in the Agenda. Referencing section 2-489 (A)(3) - remove (a) and (b).

Regarding section (4)(a)2. "...entity, as well as entities in which a real estate developer has a controlling financial interest". Add a period after "entity" and delete the remainder of the sentence. Ie. ~~"...entity, as well as entities in which a real estate developer has a controlling financial interest."~~

Commissioner Gross stated that (A)(3)(b) should be included and offered this as an amendment. "(b) A real estate developer shall not make a contribution within 12 months after termination of its status as a real estate developer."

Commissioner Steinberg accepted Commissioner Gross' amendment.

Commissioner Gross referring to A(1)(a) "...Development Agreements..." requested to add  
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"....Development Agreements or to an amendment to an existing Development Agreement ...." to clarify the language. Deputy City Attorney Jean Olin referenced section (4)(b).

Commissioner Steinberg accepted the revised language.

Commissioner Smith requested to add to (3)(a): "....becoming a real estate developer as defined in (4)(a)(1)." Per Legal Department the definition is set forth within the ordinance.

**3:42:01 p.m.**

4. An Ordinance Amending Miami Beach City Code Chapter 2, Article VII Division 5 thereof Entitled "Campaign Finance Reform", Via The Addition Of Code Section 2-490 Entitled "Prohibited Campaign Contributions By Lobbyists On Real Estate Development Issues"; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading**  
(Requested By Mayor David Dermer)

**ACTION: Ordinance approved on First Reading as amended.** Motion made by Commissioner Steinberg; seconded by Commissioner Bower; Ballot vote: 5-1; Opposed: Commissioner Garcia; Absent Commissioner Cruz. Second Reading and Public Hearing scheduled for February 05, 2003. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Legal Department to handle.

Commissioner Garcia asked who is considered a lobbyist?

Jean Olin, Deputy City Attorney, stated that this ordinance addresses lobbyists for real estate development matters as defined in the ordinance. The ordinance affects lobbyists on 1) present or pending Development Agreement or 2) a lobbyist on an application for a change in zoning map designation or the FLUM (Future Land Use Map).

Commissioner Garcia asked specifically about the Aqua project. The architect would have had to register as a lobbyist.

Jean Olin stated that the architect was a lobbyist; however, under this ordinance the architect would only be prohibited from giving a campaign contribution if the architect was appearing in regard to a zoning map designation change or Future Land Use Map change.

Robert Meyers, from the Miami-Dade Commissions on Ethics, spoke.

Jean Olin stated that even if they are lobbyists for a non-profit entity, they are still subject to this ordinance if the issue is 1) present or pending Development Agreement or 2) a lobbyist on an application for a change in zoning map designation or the FLUM (Future Land Use Map).

Mayor Dermer stated that there needs to be a list of lobbyists. He also stated that he did not mind an exemption to the 501(c)(3) or not-for-profits lobbyists. He instructed the Legal Department to add the necessary language between first and second reading. **Legal Department to handle.**

**Commissioner Garcia stated that candidates will be depending on the City and the City needs to be held accountable. He requested a sample of reports (vendors/lobbyist) for the next Commission meeting. R. Parcher, Gus Lopez, and Jorge Gomez to handle.**

Commissioner Garcia stated that since Mayor Dermer already has an account open, that he will abide by every regulation being passed right now.

Mayor Dermer will abide by this during the transition period and encouraged all candidates to also abide.

**10:20:30 a.m.****5:03:29 p.m.****R5B Comprehensive Plan Amendment - Round #03-2**

An Ordinance 1) Amending The Future Land Use Map Of The Comprehensive Plan By Changing The Future Land Use Category For A Parcel Of Unplatted Land Of Approximately 5.6 +/- Acres On Terminal Island, Located South Of The MacArthur Causeway, From The Current Land Use Category I-1, Light Industrial With A Floor Area Ratio (FAR) Of 1.0, To The Proposed Future Land Use Category Of "RM-PRD," Multifamily, Planned Residential Development With A Floor Area Ratio (FAR) Of 1.0; And 2) Amending Part II: Goals, Objectives And Policies Of The City Of Miami Beach Comprehensive Plan, By Amending Policy 4.2 Of Objective 4 "Hurricane Evacuation," Of The Future Land Use Element; By Amending Policy 1.2 Of Objective 1: "Port Facility Expansion" Of The "Ports, Aviation And Related Facilities" Element; Amending Policy 9.2 Of Objective 9, "Density Limits," Of The "Conservation/Coastal Zone Management," Element, In Order To Allow The Requested Future Land Use Category For The Subject Property; Directing Transmittals Of This Ordinance And All Applicable Documents To Affected Agencies. **5:01 P.M. First Reading, Public Hearing.**

(Planning Department)

**ACTION: Public Hearing opened and continued to February 5, 2003 at 5:01 p.m.** Motion made by Commissioner Garcia; seconded by Commissioner Steinberg; Voice vote: 7-0. Lilia Cardillo to place on the agenda. Jorge Gomez to handle.

Harold Rosen requested a continuance.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald

**10:20:30 a.m.****5:03:29 p.m.****R5C Zoning Map Change And Land Development Regulations Amendment**

An Ordinance Amending The Official Zoning District Map, Referenced In Section 142-72 Of The Code Of The City Of Miami Beach, Florida, By Changing The Zoning District Classification For A Parcel Of Unplatted Land Of Approximately 5.6 +/- Acres On Terminal Island, Located South Of The MacArthur Causeway From The Current I-1 Light Industrial, To The Proposed Zoning Classification RM-PRD3, Multifamily Planned Residential Development, With A Floor Area Ratio (FAR) Of 1.0; Amending Chapter 142 "Zoning Districts And Regulations," Amending Subdivision III. "RM-PRD Multifamily, Planned Residential Development District" By Adding Subdivision IIIB. "Development Regulations For RM-PRD3;" Providing For Codification, Repealer, Severability, And An Effective Date. **5:01 P.M. First Reading, Public Hearing**

(Planning Department)

**ACTION: Public Hearing opened and continued to February 5, 2003 at 5:01 p.m.** Motion made by Commissioner Garcia; seconded by Commissioner Steinberg; Voice vote: 7-0. Lilia Cardillo to place on the agenda. Jorge Gomez to handle.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald



**4:14:37 p.m.**

- R5D Amendment To RM-PRD Land Development Regulations As It Relates To The Subdivision Of Land Within The District
- An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Subdivision III, "RM-PRD Multifamily, Planned Development District," Section 142-185, Clarifying The Average Unit Size For New Construction Is A Minimum Of 1,000 Sq. Ft., Allowing The Subdivision Of Land Within Such District, As Long As The Parent Parcel Remains In Compliance With The Land Development Regulations Of That Section, And Providing That All Development Within The District Is Subject To Design Review Procedures, Providing For Repealer, Severability, Codification And An Effective Date. **First Reading** (Planning Department)

**ACTION: Ordinance approved on First Reading.** Motion made by Commissioner Garcia; seconded by Commissioner Smith; Ballot vote: 7-0. Second Reading and Public Hearing scheduled for February 05, 2003. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

Gary Held, First Assistant City Attorney, introduced the item.

Commissioner Steinberg asked if this item was notice to the neighboring condominium. He stated that he would support this but between first and second reading there be notice given to the condominium association and their legal counsel. **Jorge Gomez to handle.**

Commissioner Smith asked about the "Parent Tract."

Jorge Gomez, Planning Director, and Mr. Cliff Schulman, Esq., Greenberg Traurig, et al., explained the "Parent Tract."

**10:47:27 a.m.**

- R5E An Ordinance Amending Chapter 106 Of The Miami Beach City Code Entitled "Traffic And Vehicles" By Amending Article II Thereof Entitled "Metered Parking" By Amending Division I Entitled "Generally", By Amending Section 106-55 (L), Entitled "Exceptions" By Providing For Parking Smart Card Program Incentives And Authorizing The City Manager To Allow Parking Incentives For Specific Initiatives Sponsored And/Or Promoted By The City; Providing For Repealer, Codification, Severability, And An Effective Date. **First Reading** (Parking Department)

**ACTION: Ordinance approved on First Reading.** Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Ballot vote: 6-0; Absent: Vice-Mayor Cruz. Second Reading and Public Hearing scheduled for February 05, 2003. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Saul Frances to handle.

Ada Llerandi, Parking Subcommittee, spoke.

Robert Todak, Parking Subcommittee, spoke

**10:50:51 a.m.**

R5F An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 12, "Arts, Culture, And Entertainment," Article II, "Special Events," By Inserting A New Section 12-6, Entitled "Parking For Special Events," Adopting Procedures For The Review And Approval Of The Use Of Public And Private Property Not So Permitted Under Existing Zoning To Be Used As Emergency Parking Lots For Special Events, Providing For Repealer, Codification, Severability, And An Effective Date. **First Reading**

(Parking Department)

**ACTION: Ordinance approved on First Reading as amended and referred to the Neighborhoods Committee.** Motion made by Commissioner Bower; seconded by Commissioner Garcia; Ballot vote: 6-0; Absent: Vice-Mayor Cruz. Second Reading and Public Hearing scheduled for February 26, 2003. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Vivian Guzman to place on committee agenda. Saul Frances to handle.

Gary Held, First Assistant City Attorney, stated the purpose for the ordinance and stated that the Planning Department is recommending an amendment that limits the properties being used for commercially or multi-family zoned. No single-family zoned parcels would be used.

Commissioner Smith stated that he would like some input from those most affected by the designated lot. There should be some way to monitor who is most impacted by the designation.

Commissioner Bower stated that if there is no neighborhood association that the impacted residents be notified.

Commissioner Gross stated that the Boat Show parking lot is a good place to start to work with the neighborhood, to see if there is a way to minimize the intrusiveness of the traffic into the neighborhood. **Saul Frances to handle.**

Commissioner Steinberg questioned the reason why exclude the single-family residential parcels?

Commissioner Bower stated that the term "special events" should be defined between first and second reading.

Jorge Gonzalez, City Manager, agreed with Commissioner Bower that the term "special events" should be defined. He stated that the intent is to deal with those events that are brought in front of the Commission as emergencies, and parties are not emergencies. The events that are brought to the Commission are the Boat Show and Art Deco Weekend. Big parties are not considered special events. He stated that between first and second reading this issue should be referred to the Neighborhoods Committee for discussion.

**11:04:29 a.m.**

- R5G An Ordinance Amending Chapter 2 Of The Code Of The City Of Miami Beach Entitled "Administration"; By Amending Article VI Thereof Entitled "Procurement"; By Amending Division 3 Entitled "Contract Procedures"; By Amending Sections 2-367 And 2-369; Said Amendments Respectively: 1) Providing For The City Manager With The Authority To Reject All Bids Within Certain Parameters; And 2) Providing For The Administration To Negotiate On Any Construction Project Whereby The Lowest And Best Bidder Exceeds The Budgeted Amount; And 3) Providing The City Manager With The Authority To Approve Purchases Of Commodities, Materials, Supplies Or Other Items On A Continuing Basis From Contracts Awarded By The School Board Of Miami-Dade County; Providing For Repealer, Severability, And An Effective Date. **First Reading**  
(Procurement)

**ACTION: Ordinance approved on First Reading.** Motion made by Commissioner Bower; seconded by Commissioner Smith; Ballot vote: 6-0; Absent: Vice-Mayor Cruz. Second Reading and Public Hearing scheduled for February 05, 2003. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Gus Lopez to handle.

#### **R7 - Resolutions**

- R7A A Resolution Authorizing The Mayor And City Clerk To Execute A Tolling Agreement By And Between RDP Royal Palm Hotel Limited Partnership And R. Donohue Peebles And The Miami Beach Redevelopment Agency And The City Of Miami Beach To Establish A Period Of Time, The "Tolling Period," During Which The Parties Can Engage In Settlement Discussions Regarding The Royal Palm Claims. **Joint City Commission And Redevelopment Agency**  
(Economic Development)

**ACTION:** Item withdrawn at the request of Mr. Donahue Peebles.

**11:37:39 a.m.**

- R7B A Resolution Following A Duly Noticed Public Hearing To Obtain Citizen Input On Same, Authorizing The Mayor And City Clerk To Execute A Lease Agreement Between The City Of Miami Beach And Jacques Auger Design Associates, Inc., For Use Of Approximately 1585 Square Feet Of City-Owned Office Space On The 6<sup>th</sup> Floor Of Historic City Hall, Located At 1130 Washington Avenue, Miami Beach, Florida, For A Three Year Term, Commencing On May 1, 2003, And Ending On April 30, 2006; Further Waiving, By 5/7ths Vote, The Competitive Bidding Requirement; As Required By Section 82-39 Of The Miami Beach City Code, Finding Such Waiver To Be In The Best Interest Of The City. **11:30 A.M. Public Hearing.**  
(Economic Development)

**ACTION:** Public Hearing held. **Resolution No. 2003-25105 adopted.** Motion made by Commissioner Bower; seconded by Commissioner Gross; Voice vote: 6-0; Absent: Vice-Mayor Cruz. Joe Damien to handle.

Joe Damien stated that a scrivener's errors were found and corrected. Amended page 3 with corrections submitted to the City Clerk's Office.

Commissioner Gross stated that there is a typographical error on page #3 that needs to be corrected. Commissioner Gross stated that in the Comparable Rent Analysis section #3 that the address should be 1680 Michigan Avenue not 1680 Meridian Avenue. See page 231 of the Agenda.

City Clerk's Note: Page 3 of the Agreement (3.2.4): "..... . Sub-Lessee Rent for the sub-leased areas shall total two ~~three~~ thousand one hundred twenty dollars (\$2,120.000) per year, ....). Correction has been submitted.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald

**11:40:21 a.m.**

R7C A Resolution Following A Duly Noticed Public Hearing To Obtain Citizen Input On Same, Authorizing The Mayor And City Clerk To Execute Three Lease Agreements, Each For A Term Of Two Years, Between The City Of Miami Beach And 1) Arts And Business Council Of Miami, Inc., For The Use Of Approximately 97 Square Feet Of Office Space; 2) Children's Cultural Coalition Of Dade County, Inc., For The Use Of Approximately 98 Square Feet Of Office Space; And 3) Florida Dance Association, Inc., For The Use Of Approximately 464 Square Feet Of Office Space; All At The City-Owned Byron Carlyle Theater, Located At 500 71st Street, Miami Beach, Florida; Each Lease Agreement For A Term Of Two (2) Years, Commencing On February 1, 2003, And Ending On January 30, 2005; Further Waiving, By 5/7ths Vote, The Competitive Bidding And Appraisal Requirements; As Required By Section 82-39 Of The Miami Beach City Code, Finding Such Waiver To Be In The Best Interest Of The City. **11:40 A.M. Public Hearing**

(Economic Development)

**ACTION:** Public Hearing held. **Resolution No. 2003-25106 adopted. The construction budget related aspects of the Byron Carlyle Theater referred to the Finance and Citywide Projects Committee.** Motion made by Commissioner Gross; seconded by Commissioner Smith; Voice vote: 6-0; Absent: Vice-Mayor Cruz. Patricia Walker to place on Committee Agenda. Joe Damien and Christina Cuervo to handle.

Commissioner Garcia stated that Mr. Mike Thompson is requesting office space at the Byron Carlyle Theater for the Teen Job Corp.

Jorge Gonzalez, City Manager, stated that he will meet with Mr. Thompson on this issue. There is also a question as to how the space is allocated in the future. This issue has been referred to the Cultural Arts Council.

Commissioner Bower stated that she likes the Teen Job Corp program; however the issue of liability needs to be addressed. She stated that the City should be working to strengthen the program.

Brad Judd gave a presentation on the remodeling status of the Byron Carlyle.

Commission Gross asked about the construction budget aspects of the project and made a motion to refer those items to the Finance and Citywide Projects Committee.

Neil Fritz spoke.

Laura Bruney spoke.

Tom Dillon spoke.

David Kelsey spoke.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald

- R7D A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Proposals Received Pursuant To Request For Proposals (RFP) No. 48-01/02, For Planning, Design And Construction Administration Services For A Citywide Wayfinding Signage System; Authorizing The Administration To Enter Into Negotiations With The Top-Ranked Firm Of Hillier Group, Inc., And Should The Administration Not Be Able To Negotiate An Agreement With The Top-Ranked Firm; Authorizing The Administration To Negotiate With The Second-Ranked Firm Of Tom Graboski Associates, Inc./Meeker And Associates, Inc., And Should The Administration Not Be Able To Negotiate An Agreement With The Second-Ranked Firm; Further Authorizing The Administration To Negotiate With The Third-Ranked Firm Of The Douglas Group, Inc.  
(Procurement)

**ACTION:** Item deferred to the February 5, 2003 Commission Meeting. Lilia Cardillo to place on agenda. Gus Lopez to handle.

**11:20:33 a.m.**

- R7E A Resolution Approving Issuance Of A Request For Proposals For The Management And Operation Of The Miami Beach Convention Center And The Jackie Gleason Theater Of The Performing Arts, With An Option To Manage And/Or Market Other City Cultural Facilities, If Deemed To Be In The City's Best Interest.  
(City Manager's Office)

**ACTION: Resolution No. 2003-25107 adopted as amended.** Motion made by Commissioner Gross; seconded by Commissioner Bower; Voice vote: 6-0; Absent: Vice-Mayor Cruz. Gus Lopez to issue RFP.

**Amendment:**

Motion made by Commissioner Gross that if a bidder bids the Management And Operation Of The Miami Beach Convention Center, the bidder will be required to bid the Jackie Gleason Theater and present fee packages for the other City cultural facilities such as the Byron-Carlyle Theater, the Acorn Theater, the Bandshell and/or the Colony Theater. Bidders can bid the Jackie Gleason Theater, but must submit fee packages for the other City cultural facilities such as the Byron-Carlyle Theater, the Acorn Theater, the Bandshell and/or the Colony Theater.

**R9 - New Business and Commission Requests**

- R9A Board and Committee Appointments.  
(City Clerk's Office)

**ACTION:**

Direct appointments made:

**Barrier Free Environment Committee:**

Lee Weiss	Term expires	12/31/04	Appointed by Commissioner Bower
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**Beach Preservation Board:**

Christina Folland	Term expires	12/31/04	Appointed by Commissioner Bower
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**Beautification Committee:**

Helene Owen	Term expires	12/31/04	Appointed by Commissioner Smith
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**Budget Advisory Committee:**

Fred Berens	Term expires	12/31/04	Appointed by Commissioner Smith
David Heller	Term expires	12/31/04	Appointed by Commissioner Bower

**Committee on the Homeless:**

Scott Needleman	Term expires	12/31/04	Appointed by Commissioner Cruz
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**Community Development Advisory Committee:**

Alfredo Sanchez	Term expires	12/31/04	Appointed by Commissioner Bower
Juan Torres	Term expires	12/31/04	Appointed by Commissioner Bower

**Community Relations Board:**

Roymí Membiela	Term expires	12/31/04	Appointed by the City Manager
Octavio Zubizarreta	Term expires	12/31/04	Appointed by the City Manager
Carolyn A. Boyce	Ex-officio member representing Miami-Dade County Community Relations Board		

**Committee for Quality Education in Miami Beach:**

Leslie Coller	Term expires	12/31/04	Appointed by Commissioner Garcia
Michelle Rivera	Term expires	12/31/04	Appointed by Mayor Dermer

**Convention Center Advisory Board:**

Ed Levinson	Term expires	12/31/04	Appointed by Commissioner Gross
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**Convention Center Capital Projects Oversight Committee:**

Julio Lora	Term expires	12/31/04	Appointed by Commissioner Bower
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**Fines Arts Board:**

Randie Hofer	Term expires	12/31/04	Appointed by Commissioner Bower
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**Golf Advisory Committee:**

Joe Pallant	Term expires	12/31/04	Appointed by Commissioner Bower
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**Marine Authority:**

Juan Rodriguez	Term expires	12/31/04	Appointed by Commissioner Bower
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**Miami Beach Commission on Status of Women:**

Lidia Resnick	Term expires	12/31/04	Appointed by Commissioner Gross
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**Oversight Committee for General Obligation Bond:**

Mitch Novick Ex-officio member representing the Historic Preservation Board  
Leonard Wein Jr. Ex-officio member representing the Miami Beach Chamber of Commerce  
Jeryl (Deede) Weithorn Ex-officio member representing the Budget Advisory Committee

**Parks and Recreational Facilities Board:**

Barbara Herskowitz	Term expires	12/31/04	Appointed by Commissioner Bower
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**Police Citizen Relations Committee:**

Jonathan Beloff	Term expires	12/31/04	Appointed by Commissioner Steinberg
Regina Suarez	Term expires	12/31/04	Appointed by Commissioner Gross

**Production Industry Council:**

Linda Cole	Term expires	12/31/04	Appointed by Commissioner Gross
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**Safety Committee:**

Phillip Hudson	Term expires	12/31/04	Appointed by Commissioner Cruz
Sylvia Rotbart	Term expires	12/31/04	Appointed by Commissioner Smith

**Transportation and Parking Committee:**

Gary Knight	Term expires	12/31/04	Appointed by Commissioner Bower
Cesar Garcia-Pons	Term expires	12/31/03	Representative for the MBCC
Robert Warren	Term expires	12/31/03	Representative for the Lincoln Rd Mktg. Inc.
Martin Hymn	Term expires	12/31/04	Representative for Middle Beach Partnership

Handout or reference materials

1. Letter from Laura Bruney, Chair, Fine Arts Board, to Robert Parcher, City Clerk, dated December 2, 2002,  
RE: Board Member Recommendation

**City Commission appointments made:****Arts in Public Places:**

**ACTION:** Motion made by Commissioner Bower; seconded by Commissioner Gross to reappoint James Clearwater, Pola Reydburd, and Debra Scholl to the Arts in Public Places Committee; Voice vote: 6-0; Absent Vice-Mayor Cruz.

Commissioner Gross stated that Amy Cappellazzo moved to New York and there is a vacancy.

**Board of Adjustment:**

**ACTION:** Motion made by Commissioner Bower; seconded by Commissioner Smith to reappoint Jason Loeb, Theodore Berman, Joy Alschuler Malakoff, Neli Santamarina, and Scott Mitchell to the Board of Adjustment; Voice vote 6-0; Absent: Vice-Mayor Cruz.

**Budget Advisory Committee:**

**ACTION:** Motion made by Commissioner Gross; seconded by Commissioner Steinberg to appoint Eugene Woodard to the position of Financial Advisor; Voice vote: 6-0; Absent: Vice-Mayor Cruz.

**ACTION:** Motion made by Commissioner Garcia to appoint Jeryl (Deede) Weithorn to the CPA position; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Vice-Mayor Cruz.

**Design Review Board:**

**ACTION:** Motion made by Commissioner Bower to reappoint Ted Baker, Gustavo Dezendegui, and Gregory Neville; seconded by Commissioner Garcia; Voice vote 6-0; Absent: Vice-Mayor Cruz.

**ACTION:** Motion made by Commissioner Garcia to appoint Peter Chevalier as the Urban Land Planner; seconded by Commissioner Gross; Voice vote: 6-0; Absent: Vice-Mayor Cruz.

**Historic Preservation Board:**

**ACTION:** Motion made by Commissioner Bower to reappoint Mitch Novick (MDPL), Randall Robinson, Beth Dunlop (Dade Heritage), and Judith Berson; seconded by Commissioner Gross; Voice vote 6-0; Absent: Vice-Mayor Cruz.

Handout or Reference Material

1. Unsigned letter from Michael Kinerk, Chairman of the Miami Design Preservation League, Inc, to Thomas Mooney, dated January 7, 2003, RE: nominations of Mitch Novick, Beth Dunlop, and George Neary.
2. Letter from Scott Needelman, to Robert Parcher, dated January 6, 2003, RE: Historic Preservation Board

**Nuisance Abatement Board:**

**ACTION:** Motion made by Commissioner Gross to refer to the Neighborhoods Committee to determine if the board is needed; seconded by Commissioner Bower; Voice vote: 6-0; Absent: Vice-Mayor Cruz.  
**Vivian Guzman to place on agenda. Chief De Lucca to handle.**

**Oversight Committee for General Obligation Bond:**

**ACTION:** Motion made by Commissioner Garcia to reappoint Roberto Sanchez (North Beach); seconded by Commissioner Bower; Voice vote: 6-0; Absent: Vice-Mayor Cruz.

**ACTION:** Motion made by Commissioner Gross to reappoint Sherri Krassner (Middle Beach); seconded by Commissioner Bower; Voice vote: 6-0; Absent: Vice-Mayor Cruz.

**Planning Board:**

**ACTION:** Motion made by Commissioner Bower to reappoint Jean-Francois Le Jeune, Melvyn Schlessler, and Carlos Capote; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Vice-Mayor Cruz.

**ACTION:** Motion made by Commissioner Bower to appoint Pablo Cejas, seconded by Commissioner Garcia; Voice vote: 6-0; Absent: Vice-Mayor Cruz.

**South Pointe Advisory Board:**

**ACTION:** Commissioner Gross requested an ordinance be prepared to repeal this board. **Legal Department to handle.**

**Visitor and Convention Authority:**

**ACTION:** Motion made by Commissioner Bower to reappoint Jeff Lehman, Elsie Howard, and Steven Haas; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Vice-Mayor Cruz.

**Personnel Board: - no appointments made.**

Administration to give the City Commission input on this board. **T. C Adderly to handle.**

Commissioner Bower stated that she would like to speak with the three members who need to be re-appointed or get different names.

R9A1 Dade Heritage Trust's Three Nominations For Their Appointment To The Historic Preservation Board.  
(City Clerk's Office)

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Prepared by the City Clerk's Office

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**ACTION:** See action Agenda Item R9A.

R9A2 Nomination Of Mr. Pablo Cejas ~~Jr~~ To The Planning Board.  
(Requested By Commissioner Matti Herrera Bower)

**ACTION:** See action Agenda Item R9A.

Commissioner Bower requested a proclamation for Mr. Joe Garcia.

R9B(1) Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.)

**ACTION:**

**Milt Montalvo** presented a poster. He stated that he resents everybody patting themselves on the back because if you do a good job the citizens will tell you and it is presumptuous and a waste of time. He mentioned that there are several things that need to be taken care of 1) more policemen are needed on the streets; 2) he stated that one day he may not show up permanently to the meeting because he can get hit by a car. On Chase Ave and 41st St somebody ran a light and if he had not seen it coming, he would have been hit. Also, on 16<sup>th</sup> St. by McDonalds and Firestone is on the other corner is very dangerous; 3) the "vianderos" selling vegetable in the alleys are needed in the Community. These "vianderos" serve those citizens that are too old or incapacitated to go the store.

**Gil Zriny:** He stated that he came to City Hall to pay for his Occupational License, when he asked for a receipt he was handed the form all completed. He went into the City Clerk's Office and told Bob Parcher how impressed he was with this improvement and Bob made him promise that he would say so at the Sutnick Hour. He complimented the City for this improvement and for a job well done. Mr. Zriny spoke about the citizen that came to a previous Sutnick hour with a complaint on a fine and how this citizen was chastised by the City Manager and the City Commission and was told that this could not be discussed at the Sutnick hour. Mr. Zriny wonders if Dr. Stanley Sutnick would agree on this?

Jorge Gonzalez, City Manager, stated that this issue is on today's agenda and the Commission approved the final settlement for Mr. Stern.

Commissioner Smith stated that Mr. Stern knew about the liens when he bought the property and that Mr. Stern negotiated the purchase price based on the amount of the lien on the property.

**Joe Fontana:** Spoke on the Yacht Show. He asked how it would be handled and what will happen. In previous years he was invited to meetings with the people from the Boat Show and City staff to discuss logistics. He represents a lot of citizens on Collins Avenue who have problems with this show, but he cannot get invited to any meeting. He wants to get involved because changes need to be made such as closing of lanes, and more policemen

Commissioner Garcia stated that he welcomes Joe Fontana to participate on the preparations for the Boat Show. He stated that this brokerage show has grown so much that it paralyzes Collins Avenue. He stated that the permit process for the Boat Show was changed this year. It is now handled as a special event with very little community participation.

Jorge Gonzalez, City Manager, announced that there would be a public meeting to discuss the Yacht

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Brokerage Show on January 21, 2003 at 6:00 p.m. He stated that Mr. Fontana is welcome to attend the internal meeting on January 14, 2003.

**Bruce Roden** from Klaus Parking Systems introduced a new parking lift for the City Commission to consider modifications to the parking ordinance. He stated that there are a couple of projects in Miami Beach that are interested in using this parking lift, specifically to park two cars in one space. He wanted to introduce the concept to the City Commission trying to get it sponsored for an ordinance modification.

Mayor Dermer stated that he should go through channels and talk to the City Manager and the Parking Department to do an analysis and see if it is appropriate.

Handout or reference materials

1. Sales brochure and other sales materials.

**Commissioner Garcia** stated that he has been asking for a report on the beachfront concessions.

Jorge Gonzalez, City Manager, stated that an LTC is being drafted. He met with Boucher Brothers to get the final numbers

Christina Cuervo stated that the Boucher Brother's accountant asked for an extension until January 14, 2003 and as soon as they get it will be presented to the Commission.

Commissioner Garcia stated that he has received complaints about the "No Trespassing" signs on the golf courses. He asked about the rules implemented for La Gorce Golf Course.

Jorge Gonzalez, City Manager, stated that the same rules implemented for La Gorce would apply. Right now the City is working with the designer to determine which is the best fence for the project. The Golf Manager was asked to remove the signs that were placed too far out and leave the signs that are absolutely necessary. He also stated that the signs are being replaced with friendlier signs.

Commissioner Gross stated that while the fence is being planned additional landscape is needed along 34th street and Chase Avenue to block the entrance and prevent intrusion.

**Bea Kalstein** asked where the City is getting the money to give raises and to hire new people? This is the time when corporations, government, etc. are cutting back on spending. The City needs to take a second look at where and how the money is spent. You are accountable for every dollar spent. The people are angry.

Handout or reference materials

1. Speakers list

R9B(2) Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)

**ACTION:** Not reached.

**2:16:47 p.m.**

R9C Discussion Regarding A License For Fruit/Vegetable Mobile Unit.  
(Requested By Vice-Mayor Simon Cruz)

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Prepared by the City Clerk's Office

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**ACTION: Discussion held. Item referred to the Neighborhoods Committee.** Vivian Guzman to place on the committee agenda. Al Childress to handle.

Vice-Mayor Cruz stated that there has been an issue with fruit vendors in the City. At this point there is no provision in the City Code for a permit for this type of use. Included with this Agenda item is sample language that could be used to amend the City Code. The language has been tailored to private property, condominiums and their parking right-of-ways. This is only if the condominiums want this type of service. He would like the solution to be building specific.

Commissioner Steinberg stated that this is a good idea and should be expanded to include all types of facilities including apartment buildings.

Commissioner Bower suggested that this issue be referred to the Neighborhoods Committee for further discussions.

Commissioner Smith stated that he has concerns with this type of issues, such as health, safety, and traffic. He would like to see the details. He gave as an example the vendor on 46 Street.

Jorge Gonzalez, City Manager, stated that a State of Florida does issue a fruit and vegetable vendor license and part of the City's approval process may be to require that vendor be licensed by the State.

Vice-Mayor Cruz stated that the purpose of a license is to have uniformity and enforceability.

Commissioner Garcia stated that he is concerned about the proliferation of this business and that they will eventually become stationery business.

**Motion made by Commissioner Cruz to refer the item to the Neighborhoods Committee; seconded by Commissioner Steinberg; Voice vote 7-0. Vivian Guzman to place on the agenda. Al Childress to handle.**

R9D Discussion Regarding Housing Authority And The City Of Miami Beach.  
(Requested By Commissioner Matti Herrera Bower)

**ACTION:** Withdrawn by Commissioner Bower.

R9E Request By James Silvers For The City Commission To Review A Design Review Board Decision Requested By Gateway Development, Inc. Pertaining DRB File No. 16467, Objections To Conditions 1c, 2a, And 3. Item Deferred As Requested By Applicant.  
(Planning Department)

**ACTION:** Informational item only. Request to hold public hearing deferred at the request of the applicant.

Handout or reference materials

1. Letter from James F. Silvers, President, Gateway Development Inc., to Robert Parcher, City Clerk, dated December 17, 2002, RE: DRB Appeal No. 16467 - Appeal of DRB decision
2. Letter from Barbara Y. Trushin, Doctor of Education, to City Clerk, dated December 2, 2002, RE: Vigorously Protest application by James Silver for zoning change of property known as Terminal Island

City Clerk's Note 1/23/03: Letter from James F. Silvers, President, Gateway Development Inc., to Robert Parcher, City Clerk, dated January 22, 2003, RE: DRB Appeal No. 16467 - Appeal of DRB decision requesting the public hearing be continued to March 19, 2003 City Commission Meeting. A copy of the letter is filed with this item for future reference.

**5:20:22 p.m.**

R9F Discussion Regarding A Resolution Instructing The City Manager To Take Necessary Action To Prevent The Noise Emanating From Opium Gardens From Disturbing The Residents In The Area.  
(Requested By Commissioner Saul Gross)

**ACTION: Discussion held. See action below.**

Commissioner Gross stated he put this item on the Agenda because of the number of complaints he has received from the residents regarding the noise at Opium Gardens. He stated that he feels the City Commission needs to give some direction to the Administration to get tougher on this problem. He is proposing a resolution from the Commission to the Administration to get tougher with this situation. The problem is outside amplified music. He stated that he wants the Administration to solve this problem.

The problem of outside/open air amplified music is not just a problem with Opium Gardens but throughout the City. The alternatives are 1) preventing outside/open air amplified music or 2) close those habitual offending establishments down. He requested the Administration to state what they are doing and asked for a sense from the Commission on how they can support the Administration so that the Administration knows the Commission supports the actions being taken.

Jorge Gonzalez, City Manager, stated that Commissioner Gross is correct that Opium Gardens is not the only problem. Opium Gardens (Club Amnesia) has a very long history including them being grandfathered into certain allowance which other clubs are not allowed to do. There are clubs on Ocean Drive that violate the noise ordinances. The issue is the open-air establishments broadly and Opium Gardens specifically. The City Manager stated that when the City gets tough with the noise enforcement the residents stop complaining, but then the businesses start complaining of over-regulations. The Administration struggles to maintain a balance between the residents and the businesses. He stated that he absolutely wants direction from the City Commission.

Robert Middaugh, Assistant City Manager, stated that the Code Compliance Department has responded frequently to Opium Gardens (formerly Amnesia) because of noise complaints. The problem has not been successfully resolved. During the middle of this year the Administration and Opium Gardens entered into an agreement to attempt to get to some permanent resolution. Opium Gardens agreed at the time to do some type of roof construction to contain the noise. They have not been able to perfect this solution. The noise problem continues. Because the noise from Opium Gardens goes up-and-out, monitoring noise at street level has not been successful. The Administration has identified the 30th floor at Portofino Tower where Code Compliance can proactively monitor the noise levels.

Opium Gardens has additional staff to monitor noise. The Administration has told Opium Gardens plainly and respectfully that they must respect the noise ordinance. If they violate the noise ordinance the Administration will fight them. If there is a noise violation, someone will be arrested. The eleven outstanding noise violations are now being taken before a special master.

Mayor Dermer asked about the status of the club Billboard Live and other clubs on Ocean Drive. Noise complaints are a citywide issue.

Commissioner Gross stated that eleven (11) noise violations at Opium Gardens are a lot of violations. This is habitual violation of the noise ordinance and the City just isn't going to tolerate it.

Robert Middaugh, Assistant City Manager, stated that the Administration is very careful about the issue of selective-enforcement question. The Administration responds to all noise violations.

Vice-Mayor Cruz stated that this issue does need to be looked at holistically. As the City has grown there has been residential encroachment into the commercial area and vice versa. This issue needs to be looked at comprehensively. The residents will win out in the end. This issue will keep getting

worse and needs to be dealt with. He stated that the City should ask the Administration to come back with a recommendation of what needs to be done. Opium Gardens is in a residential neighborhood. What do you do with businesses like the Loews, or the Royal Palm and the other establishments who are in commercial areas that residential encroached upon?

Mayor Dermer stated that the businesses and residents need to work together. While the Administration has the enforcement tools, the most effective method is to have the business owners communicating with the residents.

Commissioner Gross stated that communication is terrific; however, if the noise continues there will be consequences.

Jorge Gonzalez, City Manager, stated that the Administration can get tougher, but the Administration needs guidance from the City Commission. When the Administration gets tough on the businesses and the business owners begin complaining to the City Commission, the Commission needs to support the Administration.

Commissioner Bower stated that she agrees that the businesses must be held accountable. The City is trying to promote businesses by extending the hours of operations and extending the hours to sell alcohol. There needs to be a balance.

Commissioner Steinberg stated that the issue needs to be addressed holistically. He stated that what he is hearing is that the Opium Gardens situation has improved over the last couple of weeks. The Administration is threatening to arrest people and threatening to make sure there is compliance. He asked the Administration to come back with recommendations and a report on how are the enforcement efforts working.

Commissioner Garcia asked if a solution could be found where some type of noise muffling device could be installed. He offered to be the go-between the residents and Opium Gardens. He stated that Ocean Drive and Sunset Harbor have similar but different problems. Let's try to resolve this problem.

Roman Jones, Opium Gardens, spoke.

Commissioner Gross stated that the Zoning Code permits the site (Opium Gardens) to operate in that location not as a high-energy dance club, but as a supper club. The reason Opium Gardens has been exempt from the conditional use requirement to operate an open-air establishment is because there was an exception written into the ordinance for a restaurant. That site is supposed to be a restaurant that has incidental dancing rather than a dance club that is an incidental restaurant.

Roman Jones stated that he intends to take efforts and will speak with the residents he has met with originally on a weekly basis. He stated that he is not going to say he can find a solution overnight but he is taking active steps by meeting with the residents on a weekly basis. He stated that the immediate problem is that he has tenants all around Opium Gardens who cannot sleep. His main objective right now is to lower the sound to the point where, at least it's palatable. He wants to get this situation to where it is not a nuisance to the residents anymore.

Jorge Gomez, Planning Director, gave an overview of the zoning legislation and how this establishment was grandfathered in.

Commissioner Bower stated that Opium Gardens is the source of a problem. Why can't the Commission pass legislation to force a conditional use?

Gary Held, First Assistant City Attorney, stated that the specific legal question is what status does a legal nonconforming use have and can the City adopt regulations applicable to a legal nonconforming use? He stated the answer to the question is that the City can adopt regulations applicable to a nonconforming use as long as the regulations are not designed to terminate the use.

**Motion made by Commissioner Bower to refer to the Planning Board for consideration of an ordinance to an amendment to the Land Development Regulations. Discussion continued and no second offered.**

Commissioner Smith asked about the status of a lawsuit filed around 1996 or 1997 in which the City filed to close the business because they had abandoned the use, and because of this they could not operate and lost whatever grandfathering they had at that time.

Roman Jones stated that he is going to continue working with the residents and hopefully the noise will be dampened and the sound level lowered to where it is livable. He doesn't want to be a bad neighbor, he doesn't want to cause people grief, and he doesn't want to prevent them from sleeping, so he will find a solution that is amicable to the neighbors.

Robert Dixon, Deputy City Attorney, answered Commissioner Smith's question and stated that the lawsuits were closed under court order. The litigation is finished.

Mayor Dermer requested an LTC from the Legal Department with the history on the legal situation, how it has evolved, and the current status. **Legal Department to handle.**

Gary Knight spoke.

Dr. Morris Sunshine spoke.

Brad Stevens spoke.

Erika Brigham spoke.

David Kelsey spoke.

David Haber, representing Portofino Towers and the Master Association, spoke.

Jennifer Lee spoke.

Eugene Woodard spoke. Mayor Dermer recognized him as a newly appointed member to the Budget Advisory Committee.

Commissioner Smith asked if the noise ordinance is being violated, is the Administration citing the violators and if so, why does the noise continue?

Jorge Gonzalez, City Manager, stated that the ordinance is in effect and when the inspectors find a violation of the noise ordinance, the violations are cited. Opium Gardens has been cited with eleven (11) violations that are proceeding through the Special Master process since September. Notwithstanding this process isn't working and Opium Gardens is a habitual offender, and the question is what is the next step. The Administration has been threatening arresting the violators and ultimately shutting it down or revoking their occupational license, which is doable.

Commissioner Bower asked if shutting the business down or revoking their occupation license is in the ordinance.

Jorge Gonzalez, City Manager, stated that the ordinance allows for the revocation of the occupational license. This is a pretty extreme action to take, but may be appropriate.

Frank Gerontino spoke.

Frank Del Vecchio spoke.

Commissioner Gross stated that when dealing with outdoor entertainment establishments that have other businesses it's not necessary to revoke the license. The source of the problem is the outdoor music, so do not allow outside music and that will solve the problem. Why does there need to be an open air establishment in the South Pointe area? Because the residential and commercial uses are so close together, it doesn't work, they are incompatible. Maybe there needs to be an ordinance that states that in CPS 1,2,3 and 4 there will be no more outdoor entertainment establishments. The issue is the existing businesses; however, at least there will not be anymore. In addition, there needs to be a series of fines that are not considered by the business owner as a cost-of-doing business.

Mayor Dermer suggested that until it is determined what will happen legislatively, as a suggestion to the Administration, on any day if there is a violation they get noticed, if there is a second violation on the same day the business is shut down for that day.

Robert Dixon, Deputy City Attorney, stated that in order to shut the business down, the City Manager would have to declare an emergency. They can take out the DJ or manager. The City can't just shut the business down. The City can give them a choice of arresting them or shutting down.

David Haber spoke.

Robert Dixon, Deputy City Attorney, stated that instead of going the Special Master route, the City could make the choice of prosecuting under the license ordinance. There is a provision under the license ordinance that deals with repetitive violations where the license can be temporarily suspended or revoked by the City Manager.

Commissioner Gross stated that the City Manager currently has the power to temporarily suspend or revoke a license of any person, as determined by the City Manager, that habitual conduct has occurred at the licensees premises that violates City, County or State laws.

Commissioner Bower stated that the City Manager doesn't know how the Commission will re-act if he begins shutting businesses down throughout the City for habitual noise violations.

**Motion made by Commissioner Gross to advise those businesses that are habitual noise violators to eliminate the source of the outside music rather than shutting the business down; seconded by Commissioner Bower.**

Judy Clayton, aka Carolyn Freveletti spoke.

Michel Leibovici spoke.

Benita Argos spoke.

Jones Roman spoke.



Murray Dubbin, City Attorney, reminded the Commission that they are a legislative body. The administration of the law under the City Charter is the job of the City Manager. The Commission can express the sentiment and policy of the Commission. He believes that the City Manager is looking for the policy and sentiment of the Commission regarding this issue. A motion would be in order to set the policy of the Commission.

**1) Motion made by Commissioner Gross directing the Administration to prepare an amendment to the current ordinance to prohibit anymore open-air entertainment establishment in CPS districts prospectively. Discussion continued and no vote taken.**

**2) Regarding this particular situation with Opium Gardens; if there are two more noise violations, when the second one occurs, that the City Commission give a sense to the City Manager that the Commission believes the business has engaged in habitual conduct that violated City, County, or State law, that the City Manager has the ability to close the business down, but offer the business the option to eliminate the amplified outdoor music upon the occurrence of the second violation; Seconded by Commissioner Bower. Discussion continued and no vote taken.**

Murray Dubbin, City Attorney, regarding the above motion, suggested that upon the occurrence of the second violation that it is the sentiment of the City Commission that the procedures necessary to revoke the license or take whatever action is necessary to stop the violation, be taken by the Administration.

Commissioner Gross stated that before revoking the license he'd rather see the music eliminated or moved indoors before the license is revoked.

Robert Dixon, Deputy City Attorney, explained the procedure for revoking the license pursuant to the City Code.

Mayor Dermer stated that this issue is in the hands of the Administration. He stated that the Commission is strong on this issue as far as protecting the residential interests. He also stated that the majority of this Commission is supportive of the Administrative efforts needed. The City Manager needs to know today that the sentiment of this body is to back him in enforcing the law currently.

**3) Motion made by Commissioner Bower that the City Manager has the confidence of the City Commission to strongly exercise whatever sanctions are called for in the ordinance for repeated and habitual violators. She also stated that there should be a police presence at Opium Gardens to not only address the noise issues, but also the quality of life of the area. She added that if Opium Gardens is impacting the neighborhood during normal business hours of 5 a.m., they must be terrible when the City extends the courtesy of extending the hours of operations to 7 a.m. and requested it be looked into.**

**Commissioner Gross and Mayor Dermer agreed that the preference is to eliminate the outdoor music not necessarily to close the business down; Vice-Mayor Cruz added that the motion should include motions 1, 2 (see Murray Dubbin's comments), and 3; seconded by Vice-Mayor Cruz; Voice vote 7-0. Jorge Gomez to place on Planning Board agenda. Al Childress to handle noise issues and Jorge Gomez to draft ordinance.**

Jorge Gonzalez, City Manager, stated that there are other noise violations similar to Opium Gardens

throughout the City.

Vice-Mayor Cruz and Commissioner Bower stated that the intent of the motion is to enforce the noise ordinance throughout the City.

Vice-Mayor Cruz stated that the Administration has all the tools at its disposal. Use them and use them vigorously.

### **R10 - City Attorney Reports**

#### **Addendum:**

R10A Notice Of Closed Executive Session.

Pursuant To Section 286.011, Florida Statutes, A Closed Executive Session Will Be Held During Lunch Recess Of The City Commission Meeting On January 8, 2003 In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss settlement on the following case:

**Prestige Laboratories, Inc. vs. City of Miami Beach, Florida.** Circuit Court of the Eleventh Judicial Circuit of Florida, Case No. 01-8731 CA30

The Following Individuals Will Be In Attendance: Mayor David Dermer; Members Of The Commission: Matti Herrera Bower, Simon Cruz, Luis R. Garcia Jr., Saul Gross, Jose Smith And Richard L. Steinberg; City Attorney Murray H. Dubbin, City Manager Jorge M. Gonzalez, Deputy City Attorney Robert Dixon, and Senior Assistant City Attorney Rhonda Montoya.

**ACTION:** Announced and held. See Agenda Item C7H.

#### **Addendum:**

R10B Notice Of Closed Executive Session.

Pursuant To Section 286.011, Florida Statutes, A Closed Executive Session Will Be Held During Lunch Recess Of The City Commission Meeting On January 8, 2003 In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss settlement on the following case:

**Royal World Metropolitan Inc. vs. City of Miami Beach.** Third District Court of Appeal Case No. 3D02-3161 (an appeal from Eleventh Judicial Circuit Court, Case No. 99-17243 CA 23).

The Following Individuals Will Be In Attendance: Mayor David Dermer; Members Of The Commission: Matti Herrera Bower, Simon Cruz, Luis R. Garcia Jr., Saul Gross, Jose Smith And Richard L. Steinberg; City Attorney Murray H. Dubbin, City Manager Jorge M. Gonzalez, Deputy City Attorney Robert Dixon, First Assistant City Attorney Debora Turner, and outside counsel Jennifer Altman, Esq.

**ACTION:** Announced and held.

### **Reports and Informational Items**

A Parking Status Report.

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**ACTION: Written report submitted.**

**4:27:33 p.m.**

B Status Report On The Rehabilitation Project Of The Existing Building And The Addition To Fire Station No. 2.

(Capital Improvement Projects)

**ACTION: Written report submitted. Oral report given by Jorge Gonzalez, City Manager.**

Jorge Gonzalez, City Manager, stated that this is a status update. The Fire Station No. 2 project is a comprehensive project that encompasses more than just a fire station. It incorporates the replacement of the current water tank that is in the property yard. The project includes building two new water tanks and a pump station, the demolition of the existing water tank, and the construction of the new portion of the fire station. Jasco was awarded the construction-manager-at-risk contract. The construction documents are approaching 100% completion. At this point the construction-manager-at-risk is to provide the City with a guarantee-maximum-price (GMP). Jasco has told the City that they can provide the GMP for the water tanks within the next two weeks. The contract allows for the City to sever the relationship and go out with a bid on the project. The options are to proceed and wait for the GMP to see if it is inline with budget or end the relationship and move forward. The choice will need to be made soon. Proceeding with the water tank project is less risky because there are a few sub-contractors who can perform this kind of work. If the City were to bid this project it would probably get the same contractors as Jasco would use. The City would gain 3 or 4 months by allowing Jasco to continue. If the choice were to sever the relationship now and bid the project it would take 4 months or so before construction could begin.

Commissioner Garcia stated that he is frustrated with the project and doesn't want to see any more delays. In addition, further delays could also increase the cost of the project.

Commissioner Gross stated that the City is dealing with a company who has not performed their obligations as construction manager. When you know there is a problem with the contractor the best thing to do is to sever the relationship and get another one. For a construction manager to go through 100% design development and 50% construction documents and report everything is within budget and then, at the last minute, at 100% construction document to say that the project is over budget by \$2 million dollars means they did not do their job. According to the Administration there are only a couple of contractors that can do the job. Why not waive the competitive bidding and negotiate with the contractors who can do the project?

Jorge Chartrand, Assistant Director - CIP, stated that they anticipate the pricing for the water tank project to be on budget or very close to budget. On the fire station project there are serious and significant concerns that are being dealt with.

Commissioner Gross stated that if there are serious concerns with Jasco regarding the fire station why continue with them on the water tank project?

Jorge Gonzalez, City Manager, stated that in order to get the fire station built, the water tank project needs to be completed. Based on the information being received, perhaps the water tank project is a relatively risk-free endeavor with this contractor. Going with Jasco on the water tank project saves time.

Commissioner Gross stated that time can be saved by severing the relationship with a contractor and waive the bid process.

Jorge Gonzalez, City Manager, stated that two weeks from now the Administration will know definitively if the amount is within budget and at that point a decision needs to be made.

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Commissioner Garcia stated that his concern is that the longer the fire station is postponed, the more it is going to cost.

Commissioner Gross stated that the solution is to sever the relations and waive competitive bids.

Commissioner Smith stated he shares Commissioners Gross' concerns. Reading from the December 24, 2002 LTC on this subject, stated that the staff and consultant review concludes in addition to being significantly over budget in the pricing of all components, Jasco did not following its construction-management-at-risk contract with the City and did not provide the level of input and review required by the contract. He stated that he is leery of going forward with a contractor who has started off on the wrong foot. He stated that he is also concerned about the issues raised by the inspector general. With this in mind he would sever the relationship and follow Commissioner Gross' recommendation of waiving competitive bidding.

Commissioner Bower asked why the Administration didn't recommend waiving the bids because of the trouble with the contractor?

Jorge Gonzalez, City Manager, stated that with the current contract in place, the City is not at the point to have to make a decision. Jasco is required to give the City the GMP within 2 weeks. The final decision will be based on the GMP and Jasco's willingness to agree to certain contract amendments. He stated that he is not confident that Jasco can do the fire station project. The water tank project has a very few number of vendors who can do this work, the Administration is involved in the selection of the vendors, we have good engineers on contract with CDM who will help with the oversight on the engineering aspects, and Jasco has agreed to allow the City to assume the contracts if the City severs the relationship mid-project.

Commissioner Cruz stated that he would grant the City Manager the two weeks requested and only because this is driving the rest of the timetable. He stated that because of the skepticism shown by the City Manager, this issue needs to be discussed at the Finance and Citywide Projects Committee.

Jorge Gonzalez, City Manager, stated that as soon as he knows he will inform each of the Commissioners individually and either on February 5 or February 26, if the recommendation is not to proceed with Jasco, another recommendation will be given.

Mayor Dermer stated to refer this issue to the Finance and Citywide Projects Committee and for the Administration to come back at the next Commission meeting with his recommendation.

Jorge Gonzalez, City Manager, stated that the recommendation will be given either at the February 5 or February 26 Commission Meeting. Jasco needs to give the Administration a GMP in order for the Administration to give a recommendation to the Commission. He asked Jasco: "Can you [Jasco] get your bids and GMP to the City?"

Alfredo Brizuela, P.E., partner with Jasco, stated that the bids will be opened the week of January 20th. He stated that the Commission Meeting of February 5 is a reasonable time period. He also stated that he expects the price on the tanks to go down.

C Status Report On The General Obligation Bond Funded Project For The Rehabilitation Of Fire Station No. 4.

(Capital Improvement Projects)

**ACTION: Written report submitted.**

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- D Informational Report To The Mayor And City Commission, On Federal, State, Miami-Dade County, And All Existing City Contracts For Renewal Or Extensions In The Next 180 Days.  
(Procurement)

**ACTION: Written report submitted.**

**Addendum:**

- E Status Report On Beach Management Plan.  
(Public Works)

**ACTION: Written report submitted.**

**End of Regular Agenda**

**Miami Beach Redevelopment Agency  
Commission Chambers, 3rd Floor, City Hall  
1700 Convention Center Drive  
January 8, 2003**

Chairman of the Board David Dermer  
Member of the Board Matti Herrera Bower  
Member of the Board Simon Cruz  
Member of the Board Luis R. Garcia, Jr.  
Member of the Board Saul Gross  
Member of the Board Jose Smith  
Member of the Board Richard L. Steinberg

Executive Director Jorge M. Gonzalez  
Assistant Director Christina M. Cuervo  
Assistant Director Mayra Diaz Buttacavoli  
General Counsel Murray H. Dubbin  
Secretary Robert E. Parcher

**AGENDA**

1. ROLL CALL

2. OLD BUSINESS

- A Report Of The Itemized Revenues And Expenditures Of The Miami Beach Redevelopment Agency For The Month Of November 2002.

**ACTION: Written report submitted.**

Gil Zriny spoke relative to the Alaska Parcel Proposed Settlement.

Handout or Reference Materials

1. Unsigned letter from Gil Zriny to Mayor Dermer and Members of the City Commission, dated January 3, 2003, RE: Alaska Parcel, responding to another Property Rights Lawsuit.

3. NEW BUSINESS

- A A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency, Authorizing The Chairman And Secretary To Execute A Tolling Agreement By And Between RDP Royal Palm Hotel Limited Partnership And R. Donohue Peebles And The Miami Beach Redevelopment Agency And The City Of Miami Beach To Establish A Period Of Time, The "Tolling Period," During Which The Parties Can Engage In Settlement Discussions Regarding The Royal Palm Claims. **Joint City Commission And Redevelopment Agency**

**ACTION: Item withdrawn at the request of Mr. Donahue Peebles.**

End of RDA Agenda

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Meeting adjourned at 7:46:04 p.m.